

APPEAL NO. 010333

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 30, 2001. The hearing officer held that the appellant (claimant) had not shown entitlement to the second or third quarter of supplemental income benefits because he did not make a good faith search for employment commensurate with his ability to work.

The claimant has appealed, arguing that his doctor told him he should not work at all during the second quarter qualifying period. He maintained that he made the requisite search during the third quarter qualifying period. The respondent (carrier) responded that the decision should be affirmed.

DECISION

We affirm the hearing officer's decision.

The claimant, a gentleman in his mid-50's, injured both knees on _____. He said he was told he would require a total knee replacement of both knees, and in fact had such surgery on his left knee in August 2000. The claimant said that his doctor, Dr. P, told him he should not work because he could aggravate his condition prior to surgery. The claimant underwent a functional capacity evaluation in December 1999 that evaluated him at the sedentary level; however, he said his condition declined. The claimant also indicated that he had heart and thrombosis problems not linked to his injury.

He was able to drive, and sought employment for the third quarter because he was advised that the carrier would require it. Nearly all contacts were made by telephone.

The qualifying periods ran from February 16 through August 15, 2000. The hearing officer has discussed her evaluation of the evidence. We do not agree that she erred in her application of the requirements of the law and rules to the facts here. The narrative that is required by Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) is essential to explain why an injury to one region of the body would preclude any type of work whatsoever. The hearing officer did not err by concluding that Dr. P's statement did not set this out.

Not finding her resolution of conflicting evidence so against the great weight and preponderance of the evidence as to warrant reversal, we affirm the decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge